

## § 22.122

## 27 CFR Ch. I (4–1–11 Edition)

responsible for the safe delivery and is accountable for any tax-free alcohol not delivered.

(b) A person or carrier transporting tax-free alcohol in violation of any law or regulation pertaining thereto, is subject to all provisions of law relating to alcohol subject to and the payment of tax thereon, and shall be required to pay the tax.

(Sec. 201, Pub. L. 85-859, 72 Stat. 1314, as amended (26 U.S.C 5001))

### § 22.122 Losses in transit.

(a) *Reporting losses.* Upon discovering any loss of tax-free alcohol while in transit, the carrier shall immediately inform the consignee, in writing, of the facts and circumstances relating to the loss. In the case of theft, the carrier shall also immediately notify the consignee's appropriate TTB officer of the facts and circumstances relating to the loss.

(b) *Recording losses.* At the time the shipment or report of loss is received, the consignee shall determine the quantity of tax-free alcohol lost. The consignee shall note the quantity lost on the receiving document and attach all relevant information to the record of receipt, prescribed in § 22.113. For the purpose of maintaining the records prescribed in subpart M of this part, receipts of tax-free alcohol shall only include the quantity actually received.

(c) *Claims.* A claim for allowances of losses of tax-free alcohol shall, as prescribed in § 22.125, be filed:

(1) If the quantity lost in transit exceeds 1 percent of the total quantity shipped and is more than 5 proof gallons, the consignee shall file a claim for allowance of the entire quantity lost; or

(2) If the loss was due to theft or other unlawful removal, the consignee shall file a claim for allowances of the entire quantity lost, regardless of the quantity or percentage involved.

(Reporting approved by the Office of Management and Budget under control number 1512-0335; recordkeeping approved by the Office of Management and Budget under control number 1512-0334)

### § 22.123 Losses on premises.

(a) *Recording of losses.* A permittee shall determine and record, in the

records prescribed by subpart M of this part, the quantity of tax-free or recovered alcohol lost on premises—

(1) At the end of each semi-annual period when the inventory required by § 22.162 is taken, or

(2) Immediately upon the discovery of any loss due to casualty, theft or other unusual causes.

(b) *Claims.* A claim for allowances of losses of tax-free alcohol shall be filed as prescribed in § 22.125, in the following circumstances—

(1) if the quantity lost during any semi-annual inventory period exceeds 1 percent of the quantity to be accounted for during that period, and is more than 10 proof gallons, or

(2) if the loss was due to theft or unlawful use or removal, the permittee shall file a claim for allowances of losses regardless of the quantity involved.

(Approved by the Office of Management and Budget under control number 1512-0334)

### § 22.124 Incomplete shipments.

(a) Subject to the provisions of this part and Part 19 of this chapter, when containers of tax-free alcohol have sustained losses in transit other than by theft, and the shipment will not be delivered to the consignee, the carrier may return the shipment to the distilled spirits plant.

(b) When tax-free alcohol is returned to the distilled spirits plant, in accordance with this section, the carrier shall inform the proprietor, in writing, of the facts and circumstances relating to the loss. In the case of theft, the carrier shall also immediately notify the shipper's appropriate TTB officer of the facts and circumstances relating to the loss.

(c) Subject to the limitations for loss prescribed in § 22.122, the proprietor of the distilled spirits plant shall file a claim for allowance of the entire quantity lost, in the same manner provided in that section. The claim shall include the applicable date required by § 22.125.

### § 22.125 Claims.

(a) Claims for allowances of losses of tax-free or recovered alcohol shall be filed, on Form 2635 (5620.8), within 30 days from the date the loss is

ascertained, and shall contain the following information:

- (1) Name, address, and permit number of claimant;
  - (2) Identification and location of the container(s) from which the tax-free or recovered alcohol was lost, and the quantity lost from each container;
  - (3) Total quantity of tax-free or recovered alcohol covered by the claim and the aggregate quantity involved;
  - (4) Date of loss or discovery, the cause or nature of loss, and all relevant facts, including facts establishing whether the loss occurred as a result of negligence, connivance, collusion, or fraud on the part of any person, employee or agent participating in or responsible for the loss; and
  - (5) Name of carrier where a loss in transit is involved.
- (b) The carriers statement regarding a loss in transit, prescribed by § 22.122 or 22.124, shall accompany the claim.
- (c) The appropriate TTB officer may require additional evidence to be submitted in support of the claim.

### Subpart J—Recovery of Tax-Free Alcohol

#### § 22.131 General.

Any person or permittee conducting recovery operations of tax-free alcohol shall be qualified by the terms of their permit to do so, under the provision of subpart D of this part. Restoration of recovered tax-free alcohol may only be accomplished on the permit premises or by the proprietor of a distilled spirits plant.

#### § 22.132 Deposit in storage tanks.

(a) Recovered alcohol shall be accumulated and kept in separate storage tanks conforming to § 22.93. Recovered alcohol shall be measured before being redistilled or reused.

(b) Recovered alcohol may be removed from storage tanks for packaging and shipment to a distilled spirits plant for redistillation.

#### § 22.133 Shipment for redistillation.

(a) Unless a permittee intends to redistill recovered alcohol to its original state, the recovered alcohol shall be shipped in containers to a distilled spirits plant for restoration.

(b) Containers shall be labeled with—

- (1) The name, address, and permit number of permittee,
  - (2) The quantity of recovered alcohol in gallons,
  - (3) The words “Recovered tax-free alcohol”, and
  - (4) A package identification number or serial number in accordance with paragraph (c)(1) or (c)(2) of this section.
- (c)(1) A package identification number shall apply to all of the packages filled at the same time. All of the packages in one lot shall be the same type, have the same rated capacity, and be uniformly filled with the same quantity. A package identification number shall be derived from the date on which the package is filled, and shall consist of the following elements, in the order shown—

- (i) The last two digits of the calendar year;
- (ii) An alphabetical designation from “A” through “L”, representing January through December, in that order;
- (iii) The digits corresponding to the day of the month; and
- (iv) A letter suffix when more than one identical lot is filled into packages during the same day. For successive lots after the first lot, a letter suffix shall be added in alphabetical order, with “A” representing the second lot of the day, “B” representing the third lot of the day, etc. (e.g., the first three lots filled into packages on November 19, 1983, would be identified as “83K19,” “83K19A,” and “83K19B.”)

(2) A consecutive serial number shall be marked on each package, beginning with the number “1” and continuing in regular sequence. When any numbering series reaches “1,000,000,” the user may recommence the series by providing an alphabetical prefix or suffix for each number in the new series.

#### § 22.134 Records of shipment.

A consignor shipping recovered alcohol or tax-free alcohol to a distilled spirits plant shall prepare and forward a record of shipment to the consignee. The record of shipment may consist of a shipping invoice, bill, or bill of lading, or another document intended for